Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE
REMARKS

Claims 3, 4, 10, 11, 17, 18, and 22 to 35 were pending in the application at the time of the final examination. Claims 3, 4, 10, 11, 17, 18, and 22 to 35 remain rejected as obvious.

The First Obviousness Rejection is not Well Founded

Claims 3, 4, 10, 11, 17, 18, 22 to 25, 27, 28, 30, 31, 33, and 34 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,408,665, hereinafter referred to as Fitzgerald, in view of U.S. Patent No. 6,526,571, hereafter referred to as Aizikowitz, and U.S. Patent No. 5,907,704, hereinafter referred to as Gudmundson.

In continuing the rejection, the Examiner stated in part:

> Aizikowitz clearly teaches the claimed classes and interfaces in an object orientated setting. Further Fitzgerald's public symbols and module names are parallel in function to the claimed interfaces and classes. Fitzgerald's system is directed to Borland C++. See column 5, lines 46-59 for this disclosure. C++ being an object-orientated language, this provides direct suggestion for using an object-orientated library for Fitzgerald's library as claimed. Furthermore, one can infer that Fitzgerald's library is object-oriented because it stores objects. See Figures 3B-4A and the corresponding portions of Fitzgerald's specification for this disclosure. Thus, the combination as a whole, does teach the claimed classes and interfaces.

Applicant respectfully traverses the obviousness rejection of Claim 3. Applicants first note that the rejection also stated "Applicant's arguments . . . are piecemeal, failing to consider the combination as a whole." Applicant respectfully disagrees, the MPEP sets forth criteria that must be satisfied in an obviousness rejection. One is

Page 2 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.

MPEP § 2141.02 V., 8th Ed., Rev. 3, p. 2100-132 (August 2005).

Thus, the first step is to determine what a reference teaches in its entirety. This includes information other than that cited in the rejection to determine whether the interpretation supplied in the rejection is appropriate when the reference is considered in its entirety. The MPEP also directs:

2143 Basic Requirements of a *Prima Facie* Case of Obviousness

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure.

MPEP § 2143, 8th Ed., Rev. 3, p. 2100-135 (August 2005).

Accordingly, what was characterized as piecemeal analysis in the rejection was actually following the criteria put forth in the MPEP. There is no basis for considering the combination as a whole, if the combination violates the requirements of the MPEP including those quoted above.

Claim 3 recites in part:

creating a public list including all public classes and interfaces defined in said object-orientated library.

Thus, the elements in the public list are defined in the object orientated library and are object orientated elements--classes

Page 3 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

and interfaces. Applicant incorporates herein by reference the MPEP criteria for claim interpretation. The rejection equates "public symbols and module names" to the "claimed interfaces and classes."

However, a module name is a particular identifier, a name, of an object module. The fact that the word "object" is used to characterize the type of the module does not give any information about how to interpret that term. The name of an object module is unrelated to a class and an object module is not an instantiation of class as taught by Fitzgerald. Fitzgerald stated:

> The compiler serves to compile source listings into object modules (which are initially stored in .OBJ files). A librarian is provided for combining desired ones of the .OBJ files into one or more library files

Fitzgerald, Abstract

Thus, Fitzgerald expressly teaches that an object module is a compiled source program, which teaches or suggests nothing about object-orientated concepts. Fitzgerald further teaches the computer language used in the object modules. Specifically,

> The translator outputs or object modules ("OBJs") store a plurality of records describing the 80x86 object language used for input and output of object language processors, such as linkers and librarians. The order of the records is to some extent arbitrary.

Fitzgerald, Col. 5, line 66 to Col. 6, line 2.

The 80X86 object language is assembly language for the Intel 80X86 processor family. It is well known that the 80X86 object language is not an object-orientated language. These facts are easily verified by doing an Internet search on "80x86 object language." Thus, the comment "Furthermore, one can infer that Fitzgerald's library is object-oriented because it

Page 4 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

stores objects," is directly refuted by Fitzgerald that defines
the objects and the computer program language associated with
the object. This is direct evidence that Fitzgerald has not
been considered in its entirety as required by the MPEP.

Fitzgerald further defines at Column 8 lines 16 and 17 the
library is an MS-DOS file, which is not object-orientated. A
basic issue here is that the rejection fails to maintain the
distinctions expressly taught by Fitzgerald and confuses the
distinctions between a high level computer language such as C++
and low level assembly language object modules and file
structures used to store those object modules. The rejection
takes elements that Fitzgerald expressly defines as being in
assembly language and asserts that one of skill in the art
looking at a reference on JAVA Packages, would replace the non-
object oriented assembly language module names and symbols with
higher language level constructs of classes and interfaces.

Such a change would render Fitzgerald inoperative.
Putting object-orientated classes and interfaces in place of
object modules and symbols in a structure that is executed by a
processor would result in the processor not being able to
execute because the processor is expecting assembly level
instructions in the 80x86 object language code according to
Fitzgerald.

The MPEP also directs:

V. < THE PROPOSED MODIFICATION CANNOT RENDER THE PRIOR ART UNSATISFACTORY FOR ITS INTENDED PURPOSE

If proposed modification would render the prior art invention being modified
unsatisfactory for its intended purpose, then there is no suggestion or motivation to make
the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

MPEP § 2143.01, 8th Ed. Rev. 3, p. 2100-137 (August 2005).

Thus, it is not a question of considering the combination
of references as a whole, but rather first considering

GUNNISON, McKAY &
HODGSON, LLP.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0810
Fax (831) 655-0888

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

Fitzgerald in its entirety, and then considering the effects of the proposed modification to Fitzgerald based on the secondary references. As noted above, substituting classes and interfaces for module names and symbols would result in Fitzgerald not working because the object modules would no longer be in the assembly language for a specific processor as taught by Fitzgerald. Thus, according to the MPEP there is no suggestion or motivation to make the proposed modification. Applicant requests reconsideration and withdrawal of the first obviousness rejection of Claim 3.

Claim 4 depends from Claim 3 and so distinguishes over the combination of references for at least the same reasons as Claim 3. Applicant requests reconsideration and withdrawal of the first obviousness rejection of Claim 4.

Independent Claims 10, 17, and 22 include the limitations discussed above with respect to Claim 3 and so the comments with respect to Claim 3 are applicable and incorporated herein by reference. Applicant requests reconsideration and withdrawal of the first obviousness rejection of each of Claims 10, 17, and 22.

Claim 11 depends from Claim 10, Claim 18 depends from Claim 17, and Claim 23 depends from Claim 22, and so each of Claims 11, 18, and 23 distinguishes over the combination of references for at least the same reasons as the independent claim from which it depends. Applicant requests reconsideration and withdrawal of the first obviousness rejection of each of Claims 11, 18, and 23.

In the obviousness rejection of Claim 24, the rejection cited "Standard and Extended Dictionaries" as "an application programming interface definition file." However, in the rejection of Claim 3, the "Standard Dictionary" was cited as a "public list." The Examiner has failed to explain or establish that an API, which is a well-known term in the art, has anything to do with a dictionary used in linking computer

Page 6 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

program code as in Fitzgerald. Moreover, the Examiner has cited no teaching that the dictionaries have any hierarchical nature or any sort of parent-child relationship. These characteristics must be added based solely on the secondary reference.

The rejection has not established how Fitzgerald would work for its intended purpose after the proposed modifications. Further inferences, as used in the rejection, are not teachings in the prior art references. For example, if an object module in Fitzgerald is a square root function or some other math function that is included in a mathematical library, what is the "direct parent of that module," and how would that be correlated with anything in the secondary reference.

In particular, Figs. 6A to 6D of Fitzgerald are "a method . . . for linking compiled object modules with Extended Dictionary Support." Linking compiled object modules and receiving a list of libraries by a linker is wholly unrelated to the process of Aizikowitz. As noted above with respect to Claim 3 and incorporated herein by reference, the combination of references requires multiple redefinitions and modifications to the primary reference that are not well founded. The fact, as originally noted, that the same object in Fitzgerald is being given different interpretations based upon the claim being rejected shows that the reference is not being consistently interpreted and considered as a whole. Applicant requests reconsideration and withdrawal of the first obviousness rejection of Claim 24.

Claim 25 depends from Claim 24 and so distinguishes over the combination of references for at least the same reasons as Claim 24. Applicant requests reconsideration and withdrawal of the first obviousness rejection of Claim 25.

Independent Claims 27, 30, and 33 include the limitations discussed above with respect to Claim 24 and so the comments with respect to Claim 24 are applicable and incorporated herein

Page 7 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

by reference. Applicant requests reconsideration and withdrawal of the first obviousness rejection of each of Claims 27, 30, and 33.

Claim 28 depends from Claim 27, Claim 31 depends from Claim 30, and Claim 34 depends from Claim 33, and so each of Claims 28, 31, and 34 distinguishes over the combination of references for at least the same reasons as the independent claim from which it depends. Applicant requests reconsideration and withdrawal of the first obviousness rejection of each of Claims 28, 31, and 34.

The Second Obviousness Rejection is not Well Founded

Claims 26, 29, 32, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fitzgerald in view of Aizikowitz and Gudmundson and further in view of U.S. Patent No. 5,974,255 hereinafter referred to as Gossain.

Applicant respectfully traverses the obviousness rejection of each of Claims 26, 29, 32, and 35 and incorporates herein by reference the above comments with respect to the independent claims that each depends. The additional information cited by the Examiner does not overcome the shortcomings of the primary combination. Applicant requests reconsideration and withdrawal of the second obviousness rejection of each of Claims 26, 29, 32, and 35.

The Third Obviousness Rejection is not Well Founded

Claims 3, 4, 10, 11, 17, 18, 22, and 23 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over U.S. Patent No. 6,230,314, hereinafter referred to as Sweeney, in view of Aizikowitz and Gudmundson.

Applicant respectfully traverses the obviousness rejection of Claim 3. Applicant incorporates herein by reference the

GUNNISON, McKAY &
HODGSON, L.L.P.
Garden West Office Plaza
1900 Garden Road, Suite 220
Monterey, CA 93940
(831) 655-0850
Fax (831) 655-0888

Page 8 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

above quotations from the MPEP. In maintaining the rejection, the Examiner stated:

> Sweeney does in fact disclose a dependency list, just the same as applicants claims are directed to a dependency list . . . a list of dependencies in an object-orientated class hierarchy.

Unfortunately, despite this action being final, none of the rejections have cited any portion of Sweeney to support this conclusion and the terminology used "dependency list" does not appear in Sweeney. If a redefinition of a teaching in Sweeney is going to be done, some evidence in the prior art must be cited to support the redefinition and the portion of Sweeney being relied upon should be explicitly cited.

Further, the rejection stated:

> . . . Sweeney's disclosure in Column 6, lines 31-35 does note imply "that Sweeney does not hide such information but in fact processed and used the information . . . " as argued by applicant. This is speculative at best, and even if true, does not mean Sweeney actually includes the hidden elements in the dependency list.

Consideration of the reference as a whole is not speculation. Further, as noted above, any modification to Sweeney cannot "render the prior art invention being modified unsatisfactory for its intended purpose."

Sweeney stated:

> . . . a class specialization technique is <u>provided that eliminates redundant components from objects</u>. More specifically, the technique detects situations where a member of a given class is used by some, but not all instances of that class, and eliminates this member from the instances where it is not needed. This is accomplished by an analysis of the program and its class hierarchy, followed by the construction of a new, specialized class hierarchy and a transformation of the program. <u>These operations preserve the original behavior of the program</u>,

Page 9 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

and have the effect of "optimizing away" unneeded class members from objects.

      FIG. 7 illustrates the operation of the class hierarchy specialization technique of the present invention.

Sweeney, Col. 6, lines 16 to 28.

      Sweeney unambiguously stated that the operations in Fig. 7 preserve the original behavior of the program. If some aspects of the class were excluded based on a particular attribute, i.e., hidden, the original behavior of the program would be altered.

      Sweeney stated unequivocally, both in this section and the section that was cited previously, that the operations did not alter the operation of the program. Therefore, when the reference is considered as a whole there is no basis for interpreting Sweeney to teach or suggest that element are eliminated based solely on whether they are hidden or not. The basis in fact for this conclusion is that Sweeney requires that original program behavior be maintained. Eliminating hidden elements would require that the operations associated with those elements be unavailable, which is a change in program behavior.

      Further, Sweeney expressly stated that the relationship used as a criterion for removal was "redundancy," and not visibility. Thus, not only does Sweeney not teach or suggest eliminating elements based on visibility, but also the modifications proposed in the rejection would change the way Sweeney functions and so is not well founded. The MPEP is unambiguous that about the two criteria and the rejection demonstrates that neither has been properly followed.

      Moreover, the interpretation of Aizikowitz is directly contradicted by the reference. Aizikowitz stated:

Page 10 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

                                        AFTER FINAL EXPEDITED PROCEDURE
        a method that belongs to a <u>packaged (i.e. non-public)</u>
        <u>class or interface</u>, cannot be directly overridden by a
        method from a different package; (Emphasis Added.)

Aizikowitz, Col. 4, lines 28 to 30.

        Accordingly, Aizikowitz defines that a packaged method
class or interface is non-public. With respect to Fig. 2,
Aizikowitz stated:

        FIG. 2 shows pictorially an inheritance graph of a
        sealed package depicted generally as 10 having root
        interfaces I.sub.1, I.sub.2 and I.sub.4 and a root class
        C.sub.o.

Aizikowitz, Col. 5, lines 11 to 13.

        Thus, Fig. 2 is expressly stated to be a sealed package,
and Aizikowitz expressly defined classes and interfaces in a
package to be non-public, as quoted above. Claim 3 excludes
classes that are not public. Aizikowitz teaches that the
operations are performed on the non-public classes and
interfaces in the package. The rejection has provided no basis
for taking these teaching concerning non-public classes and
interfaces and using them in an entirely different context.

        This is direct evidence that the reference was not
considered in its entirety to determine how one skill in the
art would view the reference. Thus, the rejection shows that
the references are not being considered as a whole, which is
required by the MPEP, and instead pieces are being selected
extracted without regard to teachings in the reference and used
in a different context without regard to whether either
reference supports the extraction. Applicant requests
reconsideration and withdrawal of the third obviousness
rejection of Claim 3.

        Claim 4 depends from Claim 3 and so distinguishes over the
combination of references for at least the same reasons as

                                Page 11 of 12

Appl. No. 09/662,258
Amdt. dated February 22, 2006
Reply to Final Office Action of December 22, 2005

AFTER FINAL EXPEDITED PROCEDURE

Claim 3. Applicant requests reconsideration and withdrawal of the third obviousness rejection of Claim 4.

Independent Claims 10, 17, and 22 includes the limitations discussed above with respect to Claim 3 and so the comments with respect to Claim 3 are applicable and incorporated herein by reference. Applicant requests reconsideration and withdrawal of the third obviousness rejection of each of Claims 10, 17, and 22.

Claim 11 depends from Claim 10, Claim 18 depends from Claim 17, and Claim 23 depends from Claim 22, and so each of Claims 11, 18, and 23 distinguishes over the combination of references for at least the same reasons as the independent claim from which it depends. Applicant requests reconsideration and withdrawal of the third obviousness rejection of each of Claims 11, 18, and 23.

Claims 3, 4, 10, 11, 17, 18, and 22 to 35 remain in the application. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).
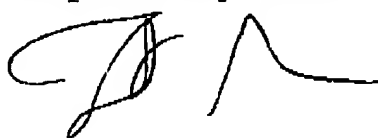
Respectfully submitted,

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Fax No. 571-273-8300, on February 22, 2006.

Rivkah Young   February 22, 2006
Rivkah Young   Date of Signature

Forrest Gunnison
Attorney for Applicant(s)
Reg. No. 32,899

Page 12 of 12